EXPLANATORY MEMORANDUM TO

THE SCHOOL AND EARLY YEARS FINANCE (ENGLAND) REGULATIONS 2026

2026 No. 37

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department for Education and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Georgia Gould, Minister for School Standards at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

2.2 Tom Goldman, Deputy Director for Funding Policy Unit at the Department for Education confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Sheryl Clark at the Department for Education can be contacted by email at the following address with any queries regarding the instrument: FundingPolicy.QUERIES@education.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument makes regulations which provide for how local authorities in England must set their education budgets for the financial year 2026-27, including financial arrangements relating to how those local authorities must fund maintained schools and providers of government-funded free early years entitlements (FEYEs) in their area.

4.2 The regulations set the parameters that local authorities must abide by in determining their education budgets, and the budgets which are allowed to be retained centrally by local authorities. They also set out how local authorities are to allocate funding to maintained schools and private, voluntary and independent early years providers through locally-determined funding formulae.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdictions which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 The regulations that make provision for local authorities' financial arrangements in relation to the funding of maintained schools and providers of FEYEs in England are made on an annual basis. These Regulations prescribe those requirements for the 2026-27 financial year. They also set out how local authorities are to allocate funding

to maintained schools in their area, and to providers of FEYEs, through locally determined formulae.

5.2 The Department for Education introduced national funding formulae (NFF) for determining allocations for local authorities, to enable them to fund schools (for 5-16 year olds), and for high needs and central school services in 2018-19. Formulae for determining local authority allocations to enable them to fund FEYEs were introduced in 2017-18. Funding for FEYEs provision is based on two national formulae (one formula for three- and four-year-olds and a separate one for two-year olds and under). However, local authorities retain responsibility for distributing that funding locally, including through their own local formula for school funding, and a separate local formula for early years funding. The Department for Education delivers this funding to local authorities through the annual Dedicated Schools Grant ("DSG").

5.3 These Regulations set out the rules local authorities must follow when spending their 2026-27 schools budget, drawn from the DSG, which consists of funding for: core provision for 5-16 year olds in mainstream schools; central services carried out on behalf of local schools; provision for children and young people (aged 0-25) with complex needs; and FEYEs.

What was the previous policy, how is this different?

5.4 The Department for Education makes these regulations annually for each new financial year. The School and Early Years Finance (England) Regulations 2025 (2025 Regulations) apply to the 2025-26 financial year, ending on 31st March 2026. These Regulations apply to local authorities' education budgets for the 2026-27 financial year, commencing on 1st April 2026. The tables below set out the overall level of funding allocated to local authorities for 2026-27 through the blocks of the DSG, as wider context: In 2026-27, high needs allocations are based on allocations in 2025-26, as explained in the NFF Policy Document for 2026-27: https://www.gov.uk/government/publications/national-funding-formula-for-schools-and-high-needs-from-2025.

Funding levels in 2026-27

Table 1: DSG grant to LAs for schools, 2026-27

Category of funding	*2025-26 (£ million)*	*2026-27 (£ million)*
Mainstream schools block	*48,653*	*50,488*
High needs block	*11,208*	*11,928*
Central School Services	*413*	*432*
Early years block	*8,472*	*10,049*
Total DSG allocation	*68,747*	*72,897*

*Table 2: Breakdown of early years block funding within DSG, 2026-27**

Category of funding	*2025-26 (£ million, initial)*	*2026-27 (£ million, indicative)*
Early Years (EY): Three-and-four-year-old universal and additional hours entitlements	*3,843*	*4,006*
EY: Two-year-old entitlements (families receiving additional support)	*455*	*536*
EY: Two-year-old entitlements (working parents)	*1,615*	*2,233*
EY: Under two-year-old entitlements (working parents)	*2,332*	*3,031*
EY: Early years pupil premium	*95*	*108*
EY: Disability access fund	*43*	*46*
EY: Maintained nursery school supplementary funding	*89*	*89*
Total EY funding (sum of above EY lines)	*8,472*	*10,049*

**For EY funding, allocations are updated based on take-up during the year and final figures are usually available in the July following the end of the financial year i.e. 2026-27 final DSG numbers will be available in July 2027.*

Schools Funding

5.5 The 2026-27 NFF is broadly similar in policy terms to the original NFF as introduced in 2018-19: the same funding factors are in use, which form the basis of funding to schools, but small technical improvements are made each year, as well as increases to the factor values used. These are set out in the NFF policy document, which has been published each year since the NFF was introduced: https://www.gov.uk/government/publications/national-funding-formula-for-schools-and-high-needs-from-2025.

5.6 Likewise, the requirements on local authorities' local funding formulae for mainstream *schools* are largely unchanged from 2025-26. Only small changes have been made to these Regulations concerning school funding, to reflect updated references to factor values and dates in accordance with our usual annual updates. Regulation 18 (on the low prior attainment factor) has been updated because this regulation needs to reflect that attainment data for some year groups is not available, where assessments were cancelled due to the COVID-19 pandemic. This Regulation allows for data relating to other year groups - which did sit the assessments – to be used as proxies for the "missing" years of assessment data, and also allows local authority averages to be used where school-specific data is not available. The 2026 Regulations update the references to the "missing" years of data, and the years of proxy data to be used. One other change is that the date of 28th February 2026 has

been added to Regulation 11(1) (formula for determining budget shares etc) to bring it into line with the formulation of Regulations 9(1) and 12(1).

Early Years Funding

5.7 The Government funds, and local authorities are required to provide, the following FEYEs:

a) 15 hours universal entitlement for all three- and four-year-olds ("the universal entitlement")

b) 30 hours entitlement for eligible working families with children aged from 9 months to compulsory school age

c) 15 hours entitlement for eligible disadvantaged two-year-olds (the "entitlement for children from families receiving additional support")

5.8 In addition to funding early years providers to deliver these FEYEs, local authorities are required to provide an additional amount of funding to providers for qualifying disadvantaged and disabled children accessing the FEYEs, through the Early Years Pupil Premium ("EYPP") and the Disability Access Fund ("DAF") respectively.

5.9 We have updated references to factor values and dates in accordance with our usual annual update.

5.10 The requirements relating to early years funding largely remain unchanged from 2025-26 but there are three key changes which are outlined below.

Changes in pass-through policy

5.11 Between 2017-18 and 2024-25, local authorities were required to pass through at least 95% of the funding they received through the government funding hourly rate to their early years providers. The intention to increase the pass-through rate to 97% was announced and consulted on in the early years funding consultation in 2023: Early years funding – extension of the entitlements[1]. For 2026-27, the Department for Education is increasing the minimum pass-through requirement to 97%. This change is reflected in the 2026 Regulations at regulation 38. We have phased in the approach to increasing the minimum pass-through requirement from 95% to 97%, having increased the rate to 96% in 2025-26.

5.12 This approach recognises the overall increase in the FEYEs funding for 2026-27, and the need to maximise funding reaching early years providers as much as possible, whilst also acknowledging the need for local authorities to be appropriately funded through a critical period of delivery.

5.13 From financial year 2026 to 2027, we are introducing a termly funding system to fund all the early years entitlements on termly census headcounts, as we already do for the working parents' entitlements for 2-year-olds and under. For the 3 and 4-year-old entitlements, our analysis shows that changing from an annual to a termly census will result in a lower number of funded hours being reported across the year, at a national level. However, we recognise that local authorities will still need to fund the same number of hours locally. To compensate for the budget reduction local authorities would otherwise see from reduced headcounts under a termly funding model, we have adjusted the 3 and 4-year-old rates, reflecting the termly variation at the national level.

[1] https://consult.education.gov.uk/funding-policy-unit/early-years-funding-extension-of-the-entitlements/supporting_documents/Early%20years%20funding%20extension%20of%20the%20entitlements_Consultation%20document%20July%202023.pdf

5.14 This means, in financial year 2026 to 2027, each local authority will receive an 'adjusted' hourly rate for 3 and 4-year-olds after allowing for the termly funding adjustment. For the vast majority of local authorities, this means they will see a further increase to their hourly rate, on top of their normal year on year increase. We have published the 3 and 4-year-old funding rates 'with' and 'without' the termly adjustment in the 2026-27 step-by-step calculations table on gov.uk to support LAs understand the adjustment and support local rates setting.

5.15 We have considered how this adjustment to 3-and-4-year-old rates interacts with the pass-through requirement and have sought to ensure that the pass-through calculation for the 3-and-4-year-old entitlements in 2026-27 takes place on a like-for-like basis with previous years. To achieve this, for the 3 and 4-year-old entitlements for 2026 to 2027, value 'D' of the pass-through calculation is the hourly unit funding rate specified in relation to a local authority in the '2026 to 2027 3 and 4-year-old funding rate without termly funding adjustment' column of the spreadsheet published in the early years: funding rates and step-by-step calculations for 2026 to 2027 document published on gov.uk on 15 December 2025. Regulation 38(2)(d)(i) has been updated to reflect this revised policy position for the 2026-27 financial year.

5.16 Although we are also moving to a termly census for the 2-year-old entitlement for families receiving additional support, we have not needed to make any changes to value 'D' for that 'relevant group' because we do not see the same change in funded hours recorded from a termly census and are therefore not applying an adjustment to the funding rates for that entitlement group. For the 2-year-olds and under entitlements for 2026 to 2027, value 'D' of the pass-through calculation in regulation 38 continues to be the hourly unit funding rate notified to a local authority in the early years block of the DSG.

SENIF eligibility

5.17 In 2026-27, we have amended paragraph 32 of Schedule 2 and the definition of "special educational needs inclusion fund" in regulation 1(4) to enable local authorities to use their special educational needs inclusion fund to support children below compulsory school age irrespective of whether they are eligible for the FEYEs. This will give local authorities greater flexibility to use their funding to support inclusion in early years settings.

Introduction of a new deadline for LAs to notify providers of their funding rates

5.18 The 2025 Regulations (and regulations relating to preceding financial years) required local authorities to determine their early years local funding formula and funding allocations for early years providers, and to notify their early years providers of those funding allocations, no later than 31 March. This deadline impacted childcare providers' ability to plan their budgets, and communicate, their rates to parents in good time for the forthcoming financial year.

5.19 In 2025-26, we introduced a new expectation for local authorities to notify early years providers of their hourly funding rates by 28 February (although local authorities still had until 31 March to notify early years providers of their funding allocations). This expectation was introduced to help ensure childcare providers had more time to plan and set their fees for any parent-paid hours. We informed local authorities that we intended to make 28 February a mandatory deadline from 2026.

5.20 These Regulations require local authorities to determine their early years local funding formula no later than 28 February and regulation 11(4) places a new requirement on local authorities to give notice of their early years local funding

formula to their early years providers no later than 28 February. These Regulations continue to require local authorities to determine funding allocations for their early years providers and to notify early years providers of their funding allocations no later than 31 March.

5.21 We will provide further guidance in our operational guide to explain the policy and expectations for what information local authorities should notify providers of under the new duty, and how that information should be communicated to providers.

6. Legislative and Legal Context

How has the law changed?

6.1 These Regulations are made under Chapter 4 of Part 2 of the School Standards and Framework Act 1998 ("SSFA 1998"), which concerns the financing of maintained schools and of the FEYEs. They relate to the 2026-27 financial year and need to be made because the School and Early Years Finance (England) Regulations 2025 apply to the 2025-26, but not to the 2026-27, financial year.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

7.1 The changes to the school funding provisions covered above are routine annual updates and technical clarifications. As such the Department has not consulted publicly on these changes, but has shared draft wording for the regulations with local authority stakeholders for their review.

7.2 The increase to the early years pass-through rate was first proposed and consulted on as part of the early years funding consultation in 2023, with the government response available here: https://www.gov.uk/government/consultations/early-years-funding-extension-of-the-entitlements. The introduction of the new mandatory deadline for local authorities to notify providers of their local early years funding formula by 28 February follows engagement with early years stakeholders and local authorities. To support implementation, an expectation to meet this deadline was also first introduced in guidance as part of the 2025-26 funding cycle.

8. Applicable Guidance

8.1 Operational guidance for 2026-27 on schools funding is available at: https://www.gov.uk/government/publications/pre-16-schools-funding-local-authority-guidance-for-2026-to-2027

8.2 Operational guidance for local authorities for 2026-27 on high needs funding is available at: https://www.gov.uk/government/publications/high-needs-funding-arrangements-2026-to-2027

8.3 Operational guidance for local authorities for 2026-27 early years funding is available at: Early years entitlements: local authority funding operational guide 2026 to 2027 - GOV.UK

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it has minimal impact on businesses, civil society organisations, and on the public sector.

Impact on businesses, charities and voluntary bodies

9.2 The impact on business, charities or voluntary bodies is that local authorities will continue to fund relevant early years providers in respect of the free entitlements for eligible working families with children aged from 9 months to compulsory school age, disadvantaged two-year-olds and three- and four-year-olds from April 2026.

9.3 These Regulations do not impact small or micro businesses, except for the early years providers referred to above.

9.4 The Regulations put no requirements on early years providers; rather, they impose requirements on local authorities, whose responsibility it is to fund providers locally with the money they receive from government.

9.5 The impact on the public sector is that local authorities must comply with these Regulations when allocating their schools budget and determining budget allocations for schools and amounts for early years providers.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is through the usual contact that the Funding Policy Unit within the Department for Education has with schools and local authorities. The team will log and review any correspondence from schools and local authorities relating to the instrument.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).